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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/314,927	05/20/1999	TAKASHI KOBAYASHI	35.C13533	5816

5514 7590 06/27/2003

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NEW YORK, NY 10112

EXAMINER

ODLAND, DAVID E

ART UNIT	PAPER NUMBER
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2662

DATE MAILED: 06/27/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

13

Office Action Summary

Application No.

09/314,927

Applicant(s)

KOBAYASHI ET AL.

Examiner

David Odland

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-7,10,13-15,18 and 30-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-7,10,13-15,18 and 30-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The following is a response to the amendments filed on 06/18/2003.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,4-7,10,13,14,18 and 30-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grover et al. (USPN 5,023,869), hereafter referred to as Grover.

Referring to claims 1 and 18, Grover discloses a communication apparatus comprising:

- a) a communication unit having different transfer rates (an originating node communicates at a plurality of different rates (see abstract and columns 9 and 10)), and adapted to transmit a predetermined packet to destinations using at least one of the different transfer rates (the originator sends a test signal to the responder (see abstract and columns 9 and 10)) until responses from all of the destinations are received (the originator waits for a response from the responder (see abstract and columns 9 and 10)); and
- b) a control unit adapted to discriminate a maximum transfer rate between the apparatus and the destinations, based on a response transmitted from each of the destinations (the originator determines the maximum data rate based on a response from the responder (see abstract and columns 9 and 10)).

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Grover does not disclose that the signals are packets but rather discloses the system operates using ISDN protocol. However, It would have been obvious to one skilled in the art at the time of the invention to use a packet network in the system of Grover because packet networks cheaper to implement since nodes on such a network can share communication links.

Furthermore, Grover does not disclose that the originator determines the maximum rate between itself and a plurality of destinations. However, it would have been obvious to one skilled in the art at the time of the invention to have the originator in Grover determine the maximum transfer rate among a plurality of destinations, because ISDN networks include a plurality of nodes to which the originator may have to communicate with and so determining the maximum rate to all of those nodes will enable the highest transfer rate to be used and so the system will operate more efficiently.

Referring to claims 4 and 30, Grover discloses the system discussed above. Furthermore, Grover discloses that the communication unit retransmits the predetermined packet at a transfer rate lower than the previous transfer rate, if at least one response is absent (if a response is not received from the responder, the originator steps down the transmission rate to a lower level and resends the test message (see column 10)).

Referring to claims 5 and 31, Grover discloses the system discussed above. Furthermore, Grover discloses that the communication unit transmits data to the destinations at the maximum transfer rate after discriminating the maximum transfer rate (when a rate is reached that the responder can use, the originator uses this rate as the maximum transfer rate when communicating with the responder (see columns 10 and 11)).

Referring to claims 6 and 32, Grover discloses the system discussed above. Furthermore, as discussed in the rejection of claim 1, Grover does not disclose that the signals are packets but

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rather discloses the system operates using ISDN protocol. However, It would have been obvious to one skilled in the art at the time of the invention to use a packet network in the system of Grover because packet networks cheaper to implement since nodes on such a network can share communication links. Furthermore, Grover does not disclose that the data is broadcast to destinations. However, broadcasting messages in communications networks is a protocol commonly used for communicating the same information to multiple destinations. Therefore, it would have been obvious to one skilled in the art at the time of the invention to use the existing broadcast protocol in the system of Grover, because doing so would reduce developmental costs since a new protocol would not need to be developed.

Referring to claims 7 and 33, Grover discloses the system discussed above. Grover does not disclose that an amount of data packetized in each packet is variable, based on the maximum transfer rate. However, It would have been obvious to one skilled in the art at the time of the invention to have the packet size vary depending on the maximum transfer rate since higher rates will allow bigger packets to be transmitted and lower rates will allow only smaller packets to be transmitted. Therefore, adjusting the packet size according to the transfer rate will make the system of Grover operate more efficiently and adaptive to the maximum speed.

Referring to claims 10 and 34, Grover discloses the system discussed above. Grover does not disclose that the communication unit conforms to an IEEE 1394 standard. However, it would have been obvious to one skilled in the art at the time of the invention to use the existing IEEE 1394 standard in the system of Grover, because doing so would reduce developmental costs since a new protocol would not need to be developed.

Referring to claims 13, 14, 35 and 36 Grover discloses the system discussed above. Grover does not disclose that the predetermined packet includes a command that inquires of an

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ability of the destinations or information about an ability of the apparatus. However, it would have been obvious to one skilled in the art at the time of the invention to include such information in messages communicated between the originator and responder for many reasons. One such reason would be that knowing each other's abilities would allow more versatile communication to take place. Namely, knowing that each can properly receive and process real-time data will allow such data to be communicated between the originator and the responder. Another reason would be to determine if the originator and responder could perform certain types of error correction, thereby making the system of Grover more robust and reliable.

4. Claims 15 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grover, in view of Watanabe et al. (USPN 6,246,665), hereafter referred to as Watanabe.

Referring to claims 15 and 37, Grover discloses the system discussed above. Grover does not disclose that the predetermined packet includes a connection ID that indicates a logical connection relationship between the apparatus and the destinations. However, Watanabe discloses a system wherein logical connection IDs are used. It would have been obvious to one skilled in the art at the time of the invention to include logical connection ID's in the system of Grover, because doing so would allow the responder to know how to locate the originator and thus properly send the response back to the originator.

Response to Arguments

5. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

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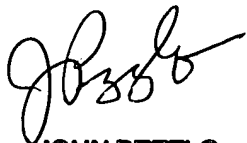
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Odland, who can be reached at (703) 305-3231 on Monday – Friday during the hours of 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou, can be reached at (703) 305-4744. The fax number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, who can be reached at (703) 305-4750.

deo

June 23, 2003


JOHN PEZZLO
PRIMARY EXAMINER